CONFLICT OF LAWS — EFFECT AND PERFORMANCE OF CONTRACTS — WHAT LAW GOVERNS NOTICE OF DISHONOR TO INDORSER OF A NOTE. — The plaintiff was the holder of a promissory note payable in Canada, indorsed by the defendant in Illinois. Notice of dishonor was given in compliance with the law of Canada, but insufficient by the Illinois rule as to notes payable in Illinois, to charge the indorser. *Held*, that the defendant is liable upon his indorsement. *Guernsey* v. *Imperial Bank of Canada*, 188 Fed. 300 (C. C. A., Eighth Circ.).

There is a conflict of authority as to what law determines the time and sufficiency of notice of dishonor to charge the indorser. See note to *Spies* v. *National City Bank*, 61 L. R. A. 193, 217. The English cases hold that this is governed by the law of the place where the bill or note is payable. *Rothschild* v. *Currie*, 1 Q. B. 43; *Rouquette* v. *Overmann*, L. R. 10 Q. B. 525. This is the rule of the Bills of Exchange Act. STAT. OF 1882, 45 & 46 VICT. c. 61, § 72. The Negotiable Instruments Law has no provisions on conflict of laws, but the weight of American authority seems to prefer the law of the place of indorsement, on the ground that the contract is made there, and that due notice of dishonor according to the *lex loci contractus* is a condition precedent to any liability. *Aymar* v. *Sheldon*, 12 Wend. (N. Y.) 439; *Snow* v. *Perkins*, 2 Mich. 238. See STORY, CONFLICT OF LAWS, 8 ed., 440. *Contra*, *Wooley* v. *Lyon*, 117 Ill. 244, 6 N. E. 885. It is submitted that the Illinois rule is the more reasonable. The holder must act where the instrument is payable. To require that he find out the place of, and the law governing, each indorsement is a considerable burden. The indorser, on the other hand, always knows the place of payment and is free to protect himself accordingly.

CONSIDERATION — VALIDITY OF CONSIDERATION — CONSIDERATION MOVING TO PROMISOR FROM THIRD PERSON. — The directors of an insolvent corporation mutually agreed to forego their claims for directors' fees. The liquidator was a party to the agreement, although he gave no consideration in behalf of the corporation. *Held*, that the corporation can hold a director on the agreement. *West Yorkshire Darracq Agency, Limited* v. *Coleridge*, [1911] 2 K. B. 326.

There are conflicting *dicta* in early English cases as to whether a person can sue on a promise made to him, the consideration for which has moved from a third party. See *Pigott* v. *Thompson*, 3 B. & P. 147, 149; *Lilly* v. *Hays*, 5 A. & E. 548, 550. In cases of contracts for the benefit of one not a party to the contract, the fact that the beneficiary is a stranger to the consideration has in some decisions been the ground for denying him recovery. *Crow* v. *Rogers*, 1 Str. 592; *Tweddle* v. *Atkinson*, 1 B. & S. 393. But it would seem that the true ground is that no promise is given to the beneficiary. See *Price* v. *Easton*, 4 B. & Ad. 433, 435. It is submitted that the basis of the common-law rule requiring consideration is that a promise, if paid for, should be binding, whether it is paid for by a stranger or by the promisee. In the United States this result has been reached where the consideration is an act performed by a third party. *Palmer Savings Bank* v. *Ins. Co. of North America*, 166 Mass. 189, 44 N. E. 211; *Hamilton* v. *Hamilton*, 127 N. Y. App. Div. 871, 112 N. Y. Supp. 10. It has been held, also, in accord with the principal case, that the promisee can recover when the consideration is a promise by a third party. *Rector, etc. of St. Mark's Church* v. *Teed*, 120 N. Y. 583, 24 N. E. 1014. This result secures the intention of the parties, and, it is submitted, is correct.

CONSTITUTIONAL LAW — CONSTRUCTION, OPERATION, AND ENFORCEMENT OF CONSTITUTIONS — CONSTITUTIONALITY OF AN APPELLATE COURT WITH FINAL JURISDICTION. — A state constitution provided that the judicial power should be vested in a Supreme Court, circuit courts, and such other courts as the General Assembly might establish. A statute gave to an Appellate Court final

jurisdiction of all but twenty-one classes of cases, including all actions for money damages. When two of the judges of that court considered erroneous a ruling precedent of the Supreme Court, the case was to be transferred to the latter. *Held*, that the statute is unconstitutional. *Ex parte France*, 95 N. E. 515 (Ind.).

It is well settled that only express provisions give to litigants a constitutional right to appeal. *People* v. *Richmond*, 16 Colo. 274, 26 Pac. 929; *Saylor* v. *Duel*, 236 Ill. 429, 86 N. E. 119. The legislature may usually vary, within wide limits, the jurisdiction even of constitutional courts. *Lake Erie & Western Ry. Co.* v. *Watkins*, 157 Ind. 600, 62 N. E. 443. The decision in the principal case must rest on the ground that the new powers of the Appellate Court deprive the Supreme Court of its supremacy. *Cf. Hildreth* v. *McIntire*, 1 J. J. Marsh. (Ky.) 206; *Court of Appeals*, 9 Colo. 623, 21 Pac. 471. It is not necessary to accept the argument of the Virginia court, that supremacy is entirely independent of jurisdiction. See *Sharpe* v. *Robertson*, 5 Grat. (Va.) 518, 604–608, 624–630. Lack of jurisdiction may make the authority of the court's opinions, its indestructibility and freedom from review, mere empty forms. Yet a constitutional court's greater authority, expressly recognized by the legislature as in this act, has more than a nominal value. The matter of jurisdiction is one of degree, but here, also, the field conferred upon the Appellate Court was apparently not as important as that of the older tribunal. It may fairly be said that the Supreme Court was still supreme, its jurisdiction legitimately limited in the interest of effective justice.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — STATUTE AUTHORIZING SUBPŒNA TO COMPEL PERSON IN ONE STATE TO TESTIFY IN ANOTHER. — A state statute authorized the granting of a *subpœna* to compel a person residing or being in the state to appear as witness in a prosecution for felony pending in any border state which had a similar statute, upon presentation to the judge issuing the *subpœna* of proof of the necessity of such witness, opportunity being given to the witness to appear before the judge to be heard in opposition thereto, and suitable provision being made for his expenses. *Held*, that the statute is constitutional. *Commonwealth of Massachusetts* v. *Klaus*, 130 N. Y. Supp. 713 (App. Div.).

The court overrules a former decision in the Supreme Court, Special Term, which declared this statute unconstitutional as depriving a person of liberty without due process of law. *Matter of Commonwealth of Pennsylvania*, 45 N. Y. Misc. 46, 90 N. Y. Supp. 808. See 18 HARV. L. REV. 466. There would seem to be ample provision for due process of law. The witness is allowed to be heard before the judge issuing the *subpœna* and ample indemnity is provided. The duty of a citizen to appear as a witness in judicial proceedings and the correlative right to compel him to appear have always been recognized. *In re Application of Clark*, 65 Conn. 17, 31 Atl. 522. The constitutionality of statutes recognizing the duty of a citizen to give testimony for use in other states and enforcing it to the extent of compelling him to make a deposition for the purpose is unquestioned. *In the Matter of United States Pipe Line Co.*, 16 N. Y. App. Div. 188, 44 N. Y. Supp. 713. The statute in the principal case is but an extension of the recognition of this duty, and whether enacted primarily to facilitate indirectly the administration of justice in the state itself, or for the facilitation of the administration of justice in general, as it does not violate any express constitutional provision, it must be held valid.

CONSTITUTIONAL LAW — PERSONAL RIGHTS: CIVIL, POLITICAL AND RELIGIOUS — ELECTIONS: DISCRIMINATION IN FORM OF BALLOT. — Chapter 649 of the New York Laws of 1911 provided that "if any person shall have been nominated by more than one political party . . . for the same office, his name